



# Independent Business Association

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Dear Jim:

Thank you for the opportunity to review and make comments on the pre-preliminary draft of the 2007 Industrial Stormwater General Permit. We have the following comments:

- We believe the draft is easier to read in general and will make it easier for small business owners to understand their requirements under the permit.
- We believe the draft is laid out and organized in a better way than the current Industrial Stormwater General Permit.
- We believe the proposed benchmarks and action levels are appropriate in the draft.
- In S3 B3, we believe that elements contained under (d.) that describe the requirements to comply with the demonstrative approach, should be incorporated under (c.) to reduce confusion. Since (a.), (b.), (c.), (d.) etc. are all equal, we believe that the current layout may be confusing to some lay readers and that incorporating the provisions of (d.) into (c.) will reduce the potential for confusion.
- In S4 B(1)(b), it states: "The Permittee shall take a single grab sample, a time-proportional sample, or a flow proportional sample." Yet, there is no definition for a "time proportional sample" or a "flow proportional sample" and we would recommend inclusion of a definition and a reference of where to get more information on these sampling procedures.
- In S4 C(2) it calls for 8 consecutive samples under the new permit and if none of the samples exceed a benchmark, then sampling for the remainder of the permit may be suspended. We believe the Department should very seriously consider additional mitigation for smaller firms with less than 4 acres to be able to do just 4 samples if they were suspended from sampling under the previous permit. Sampling is very costly to a small business and the cost of sampling per dollar of sales goes up dramatically for a smaller business as compared to a larger business in most cases.
- In S5 Table 2 and Table 3, you have a column labeled Reporting Level. Yet there is no definition of what "Reporting Level" means and we are still unclear ourselves about the meaning of the term. The term should be defined so that a lay reader understands what it means and how it does or does not impact him/her.
- In S7(A) it calls for monthly visual inspections and it adds a number of new requirements to visual inspections as compared to the current permit. The current permit requires quarterly inspections. Thus this new requirement requires nine visual inspections during October through May – effectively tripling the previous number of visual inspections. We urge the Department to consider the following recommended revisions:

- Reduce the number of visual inspections to one every other month, or a total of 5 from October through June.
- Reduce the monthly inspection frequency to only require four visual inspections for any permittee that is suspended from sampling requirements because he/she has not exceeded the benchmarks.

We propose these as ways to mitigate the impacts of the new requirements of this permit on permittees, especially small business covered by the permit.

- S8(A)(1) we recommend the addition of the word “visual” as shown: “Within two weeks after receipt of sampling results, conduct ~~an~~ visual inspection of all facility areas where industrial activities are conducted. The inspection shall:”
- S8 (A) we note a number of new requirements as compared with the current permit but we are willing to accept those additions with the hope that our other recommendations can be accommodated.
- S8 (B) we believe should be revised as follows: “After September 30, 2007, if any two sampling results in four consecutive samples for one parameter exceed an *action level* in Table 2 or Table 6, the Permittee shall:” The current permit is two out of four samples. Otherwise, as drafted, the exceedances could be years apart and far too many small business owners will be unwittingly in violation of this requirement as they forgot there was a previous exceedance.
- S8 (B) we note a number of new requirements as compared with the current permit but we are willing to accept those additions with the hope that our other recommendations can be accommodated.
- S8 (C) S8 (B) we believe should be revised as follows: “After ~~December 31, 2004~~ September 30, 2007, if four sampling results in four consecutive samples for the same parameter exceed an *action level* in Table 2 or Table 6, the Permittee shall:” Otherwise, as drafted, the exceedances could be years apart. We believe the intent of this correction action level three is to require aggressive action to eliminate the exceedance where the exceedance is omnipresent rather than sporadically present.
- S8 (C)(1) should be revised as follows: Conduct a comprehensive study to identify the potential sources of stormwater contamination that are causing exceedances of the *action level* value. The study shall include visual site inspections, and additional sampling, and source identification methods as deemed necessary by the covered firm. As now drafted, it requires additional sampling that may not be necessary or appropriate and without any direction.
- S8 (C) The current permit allows for the covered business to apply for a waiver from the Department. That is not present in the current draft. We believe this waiver provision should be included in this draft also as an option for a small business in transition to avoid requiring such a business to spend excessive amounts needlessly on a temporary mitigation solution. Clearly the Department will have the discretion whether to grant a waiver.
- S8 (D) we believe should be revised to read as follows: “Following implementation of Level Three Corrective Actions, if any two (2) samples of four consecutive samples for the parameter exceed the action levels in Table 2 or Table 6, the Permittee shall:” This is consistent with our explanations above about having two exceedances years apart and unwittingly being in violation of this requirement. We also believe that action level four is intended to be the most aggressive corrective action level as it requires very costly corrective action requirements and is not intended for future sporadic exceedances.
- S8 (D)(1) requires an engineering report to be prepared by the permittee. This is a very significant requirement for a small business and we would like to discuss possible mitigation options, like a possible waiver request, to avoid this requirement seriously harming the continuation of a small business. We look forward to discussing this with you further.

Thank you again for seeking our input and for considering our comments and recommendations. Feel free to call on us if we can be of additional assistance or provide any clarifications.

Sincerely,



Gary Smith  
Executive Director

